

**Decision Memo**  
**Tibble Fork and Silver Lake Recreation Residence Tracts**  
**Special Use Permits Issuance**

USDA Forest Service  
Uinta-Wasatch-Cache National Forest  
Pleasant Grove Ranger District  
Utah County, Utah

**A. Background**

This document outlines my decision regarding continued recreation use for 51 recreation residences located in two tracts, and related tract improvements on the Pleasant Grove Ranger District. The Tibble Fork and Silver Lake recreation residence tracts are located on the Pleasant Grove Ranger District of the Uinta-Wasatch-Cache National Forest in Utah County, Utah. Tibble Fork Tract legal description is T4S, R3E, Sections 7,8,17 and 18 SLBM. The area of impact is about 20 acres which includes 38 lots. The Silver Lake Tract legal description is T4S, R3E, Section 6 SLBM. The area of impact is about 10 acres which includes 13 lots. The tracts were established in the late 1950's. Current permit authorization expires 31 of December 2008, therefore, to legally continue the authorized use, new permits need to be issued. The attached map depicts the general location of the two tracts.

The recreation residence program was started by the Forest Service in the early 1900s as a way to encourage public use of the National Forests. Currently there are 14,285 recreation residences operated under special use permit, located in 53 National Forests in the Western United States. Recreation residences are homes and associated facilities that are owned and maintained by private individuals, but located on National Forest System (NFS) land and authorized by a special use permit. Administration of recreation residence permits is done in accordance with the direction in Forest Service Manual (FSM) 2721.23(a) through 2721.23(i) and within the broad policy governing recreation residences and permitted uses in FSM 2347.1 and Title 36, Code of Federal Regulations, section 251.50 (36 CFR 251.50).

Recreation residences are a valid use of National Forest System lands and are an important component of the overall National Forest recreation program. It is Forest Service direction to continue recreation residence use and to work in partnership with holders of these permits to maximize the recreational benefits of the residences (FSM 2347.1). The Cabin User Fee Fairness Act of 2000 directed the Forest Service "to ensure to the maximum extent practicable, that the NFS recreation residence program is

managed to preserve the opportunity for individual and family-oriented recreation..." It is recognized by the agency that the recreation residence program provides a unique recreation experience to a large number of owners of recreation residences, their families, and guests. At the same time there is recognition that the program will not grow significantly larger. Locally, the 2003 Uinta National Forest Land and Resource Management Plan (Forest Plan) states that "no new recreation residence tracts will be created or developed" and "no new construction will be permitted on vacant lots within existing recreation residence tracts".

Under these policies, summer homes in the two tracts were mostly constructed in the period from the 1950s to the early 1960s. The maximum term for recreation residence permits has been 20 years. Thus over the years, these summer homes have been authorized under a series of special use permits.

According to current Forest Service policy, a two-step process is to be used to determine whether recreation residence use should be continued on each tract with expiring authorizations (Forest Service Handbook (FSH) 2709.11, Ch. 41.23(a)). The first step involved assessing compliance with the Forest Plan. In this case, an interdisciplinary team of resource specialists reviewed the two tracts and documented their findings in a Consistency Review in 2008. In it, they determined that these recreation residence tracts were consistent with the Forest Plan.

The second step in the recreation residence review process involved an environmental analysis under provisions of the National Environmental Policy Act of 1969, as amended (NEPA). The purpose of this analysis is to examine the environmental impacts of continued recreation residence use and provide a basis for making a decision whether this use should be continued into the future. This decision memo documents both the required analysis and my decision for these two tracts.

Prior to 2006, the only specific guidance related to how recreation residences should be managed and administered was contained in the terms and conditions of the individual special use permits and a brief set of guidelines included in the prior, 1985 Forest Plan for the Uinta National Forest. These guidelines contained only limited direction for what uses might be appropriate on summer home lots, and did not establish limits for more urban types of improvements, nor include standards for environmental protection, or host of other measures that would have helped both homeowners and the Forest Service permit administrator. To address that need, in 2005 a draft Recreation Residence Administrative Guide was developed for the Wasatch-Cache National Forest. The final Administrative Guide was put into place in February 2006. The Uinta and Wasatch-Cache National Forests combined into one Forest in 2008 and the southern part of the Forest (Uinta) has adopted this Administrative Guide.

The Administrative Guide describes the desired conditions for a typical lot, its cabin, and other structures and improvements. Major sections of the document describe appropriate recreation residence uses, permit administration, general recreation residence guidelines, construction and reconstruction standards, building style and design, general lot

improvements and management. The 2008 revision incorporated mostly minor editorial changes. However, it also included a section instituting more specific restrictions for those summer homes located near streams and riparian areas. These riparian protection measures are addressed in Section 25 of the Administrative Guide.

## **B. DECISION**

I have decided to authorize continued recreation residence use within the Tibble Fork and Silver Lake Recreational Tracts through re-issuing term special use permits. With respect to each of the two tracts, the following existing facilities will be reauthorized:

### **Tibble Fork Tract**

- 36 recreation residences with current terms and conditions.
- 2 recreation residences with *conditionally accepted statement* on permit to address non-conforming use that would require significant capital to bring the facilities into compliance.

### **Silver Lake Tract**

- 13 recreation residences.

### **Conditional Acceptance**

There are instances where improvements on recreation residence lots do not conform to the Administrative Guide, or to current permit terms and conditions, even though many of these structures and facilities have existed for years. The situation is likely a result of oversight by the Forest Service, permit holders overlooking the requirement to obtain Forest Service approval before constructing facilities, or that the first Administrative Guide was not developed until 2005. Two of the residences in the Tibble Fork Tract currently have nonconforming structures. Specifically these residences exceed the square footage limit when adding the square footage of the home with the square footage of the attached decks. To address these nonconforming improvements (the decks), these two permits will be issued with a *conditionally accepted statement* on the face of the permits, which will require that the improvements be brought into compliance before the residence can transfer ownership, or be rebuilt, major repairs or modifications.

### **State and Local Government Requirements**

Forest Service regulations and policies stipulate that special use permits contain terms and conditions that require holders to comply with both Federal regulations and applicable requirements of State and local government, particularly those related to standards for public health, safety, and environmental protection (36 CFR 251.56(a)). The Forest Service is also directed to ensure that, prior to renewal of expiring permits, the use be consistent with the existing permit's terms and conditions, including those

provisions for compliance with current Federal, State, and local government requirements (36 CFR 261.64(a) and FSH 2709.11, Sec. 41.23(3)). Each recreation residence special use permit includes a clause which states “[t]he holder, in exercising the privileges granted by this permit, shall comply with all present and future regulations of the Secretary of Agriculture and all present and future federal, state, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit.”

### **Rationale**

I have decided to continue recreation residence use in the Tibble Fork, and Silver Lake Tracts because doing so is consistent with the Forest Service policies cited above, particularly the objective of providing a family-oriented recreation activity. In addition, the facilities are already in place and allowing their use into the future involves minor impacts. I also believe that use of the Administrative Guide should help to achieve consistency in the way recreation residences are used and administered, and that the environmental protection measures in the Guide should help to reduce the impact of the summer homes in the future.

### **C. Reason for Categorically Excluding the Proposed Action**

Forest Service resource specialists have visited these sites and have determined that the environmental effects will be minor. Actions may be categorically excluded from further analysis and documentation in an environmental impact statement or environmental assessment when they are within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15 Chapter 30, sections 31.12 or 31.2, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect.

The proposed action fits within categories identified by the Chief of the Forest Service for categorical exclusion FSH 1909.15, Section 31.2, Category 15:

*Issuance of a new special use authorization for a new term to replace an existing or expired special use authorization when the only changes are administrative, there are no changes to the authorized facilities or increases in the scope or intensity of authorized activities, and the applicant or holder is in full compliance with the terms and conditions of the special use authorization.*

### **D. Extraordinary Circumstances**

The federal regulations at 36 CFR 220.6 (b) list the following resource conditions that should be considered in determining whether extraordinary circumstances related to a proposed action warrant further analysis and documentation in an EA or EIS:

Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species: The Forest Service has determined that the proposed action will not adversely affect any species or critical habitat listed or proposed for listing under the Endangered Species Act, or any species classified as Sensitive by the Intermountain Region of the Forest Service. Forest Service Sensitive species evaluated were those listed for the Uinta National Forest in the most recent list of Intermountain Region Proposed, Endangered, Threatened, and Sensitive Species.

**Floodplains, wetlands, or municipal watersheds:** The Forest Service has determined that the proposed action will not adversely affect floodplains, wetlands or municipal watersheds.

**Congressionally designated areas, such as Wilderness, wilderness study areas, or National Recreation Areas:** The project area does not occur in, and the proposed action would not have any impacts on congressionally designated areas, such as wilderness, wilderness study areas, or national recreational areas.

**Inventoried Roadless Areas or potential wilderness areas:** The project area does not occur in, and the proposed action would not have any impacts on any Inventoried Roadless Areas or potential wilderness areas.

**Research natural areas:** The project area does not occur in, and the proposed action would not have any impacts on any research natural areas.

**American Indians and Alaska Native religious or cultural sites:** The proposed action would not have any impacts on any American Indian religious or cultural sites.

**Archeological sites, or historic properties or areas:** The project would not have any impacts on any archeological sites or historic properties or areas.

The proposed action will be of limited context and intensity and will not result in any significant environmental effects (40 CFR 1508.4) individually or cumulatively on the quality of the human environment; is within a 36 CFR 220.6 (e); and there are no extraordinary circumstances related to the proposed action.

## **E. PUBLIC INVOLVEMENT AND SCOPING**

On March 10, 2008, a scoping letter was sent to potential interested parties describing the proposed action. In addition, a request for comments on the proposed action was published in the *Provo Daily Herald* on March 8, 2008. An announcement of this project was also published in the winter 2007 edition of the Uinta National Forest Schedule of Proposed Actions. In response to these solicitations, the Forest Service received 5 comments. The project was internally scoped. Based on the scoping, the following concerns were identified:

*It is inconsistent to allow those permit holders with major discrepancies to continue for another 20 year period without correction to the terms and conditions to the permit.*

Two permits will not be compliant at the time of re-issuance. The two residences are too large. Both of these permits will be re-issued with *conditionally accepted statements* on the face of the permit, requiring that upon transfer of ownership or reconstruction, major repair, or modification they must be brought into compliance.

*Horses should not be allowed within the summer home tract.*

The Administrative Guide states that pets are allowed. Permanent corrals or livestock enclosures are not allowed. For this reason all permanent corrals or enclosures were converted to temporary structures.

## **F. Findings Required by Other Laws**

**National Forest Management Act of 1976** – A consistency review was conducted on each recreation residence and lot to determine consistency with the 2003 Revised Forest Plan. Recreation residence use is consistent with the standards, guidelines, and other Forest Plan management direction applicable to the areas where the summer homes are located. The two tracts are situated in the American Fork Management Area, and the management prescription is 8.4 - Recreation Residences. The Desired Future Condition states: “The Tibble Fork and Silver Lake recreation residence tracts will continue to be managed as recreation special use areas”.

**Clean Water Act of December 27, 1977** – The Clean Water Act requires each State to implement its own water quality standards. The Clean Water Act compliance will be achieved through the administration of the recreation residence special use permits within the established tracts in conjunction with the federal, state, county and local laws, regulations, policy, and ordinances. My decision will not affect the quality of the water flowing through the areas where the summer homes are located.

**Executive Order 11990 of May 24, 1977** – This order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. In compliance with this order, Forest Service direction requires that analyses be completed to determine whether adverse impacts would result. My decision will have no adverse effects to wetlands located within these areas and therefore is in compliance with E.O. 11990.

**Executive Order 11988 of May 24, 1977** – This order requires the Forest Service to provide leadership and take action to: (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risk of flood loss; (2) minimize impacts of floods on human safety, health and welfare; and (3) restore and preserve natural and beneficial values served by floodplains. My decision will have no adverse effects to floodplains.

**Endangered Species Act of December 28, 1973** – This Act directs that all Federal departments and agencies shall seek to conserve endangered, and threatened (and proposed) species of fish, wildlife, and plants. A Biological Assessment (project file) was prepared in accordance with legal requirements set forth under Section 7 of the Endangered Species Act. It has been determined that this decision will have no adverse effects to populations of endangered, and threatened (and proposed) species of fish, wildlife, and plants

**Executive Order 13186 of January 10, 2001** – This decision complies with the Migratory Bird Treaty Act and Executive Order 13186, which provides for the protection of migratory birds. Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds, and directs federal agencies to take certain actions to further implement the Migratory Bird Treaty Act. Under Executive Order 13186, federal agencies are directed to avoid or minimize adverse impacts on migratory bird resources, and ensure that environmental analyses of federal actions required by the National Environmental Policy Act evaluate the effects of actions and agency plans on migratory birds. Analysis of potential project impacts on migratory birds is found in the Wildlife Biologist Report and Biological Evaluation (project file). Implementation of this project may result in the unintentional take of migratory birds (nests and eggs), but the Forest Service will minimize, to the extent practicable, adverse impacts, and these potential impacts have been analyzed and documented in the Wildlife Biologist Report and Biological Evaluation. My decision is in compliance with this Executive Order.

**Executive Order 13112 of February 3, 1999** – E.O. 13112 directs that Federal agencies should not authorize any activities that would increase the spread of invasive plant and animal species. This decision will not increase the spread of invasive species.

**American Antiquities Act of 1906 and the National Historic Preservation Act of 1966** – There would be no effect to any historic properties as a result of this decision.

**Prime Farmland, Rangeland and Forest Land (Secretary of Agriculture Memorandum 1827)** – This are no prime farmlands or grazing allotments as a part of this decision.

**Civil Rights Act of July 2, 1964** – There will be no adverse effects to groups or individuals protected under the Federal Civil Rights Act as a result of this decision.

**Executive Order 12898 of February 16, 1994 “Federal Actions to Address Environmental Justice on Minority Populations and Low-income Populations”** – This order requires Federal agencies, to the extent practicable and permitted by law, to make achieving environmental justice part of its mission by identifying and addressing as appropriate disproportionately high and adverse human health effects, of its programs and policies and activities on minorities and low-income populations in the United States and its territorial possessions. No minorities and low-income populations would be affected by this decision.

## G. Administrative Review and Appeal

This decision pursuant to 36 CFR 215.12(f) is not subject to appeal. These permitted actions are not one of the 10 activities subject to appeal under the 215 rules as clarified on October 19, 2005 by the Federal District Court for the Eastern District of California in Earth Island Institute v. Ruthenbeck.

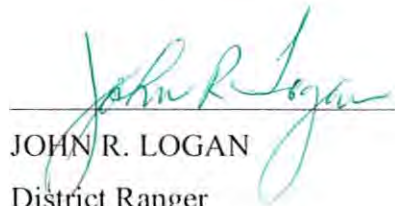
## H. Implementation Date

This project will be implemented on or after November 3, 2008

## CONTACT PERSON

For further information contact:

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Pleasant Grove, Utah 84062  
Or by phone at (801) 785-3563

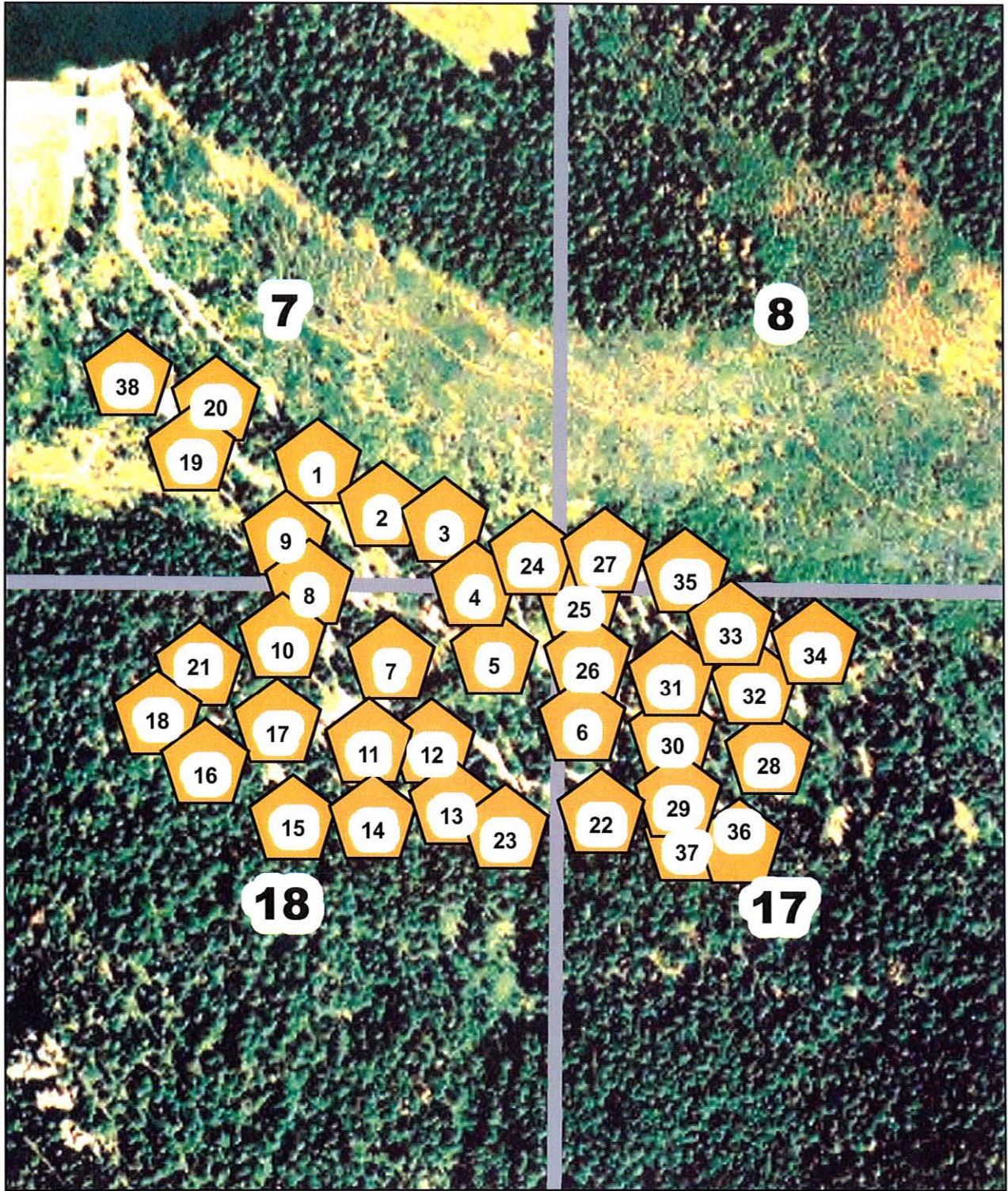
  
JOHN R. LOGAN  
District Ranger

5 November 2008  
Date

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# Tibble Fork Recreation Residence



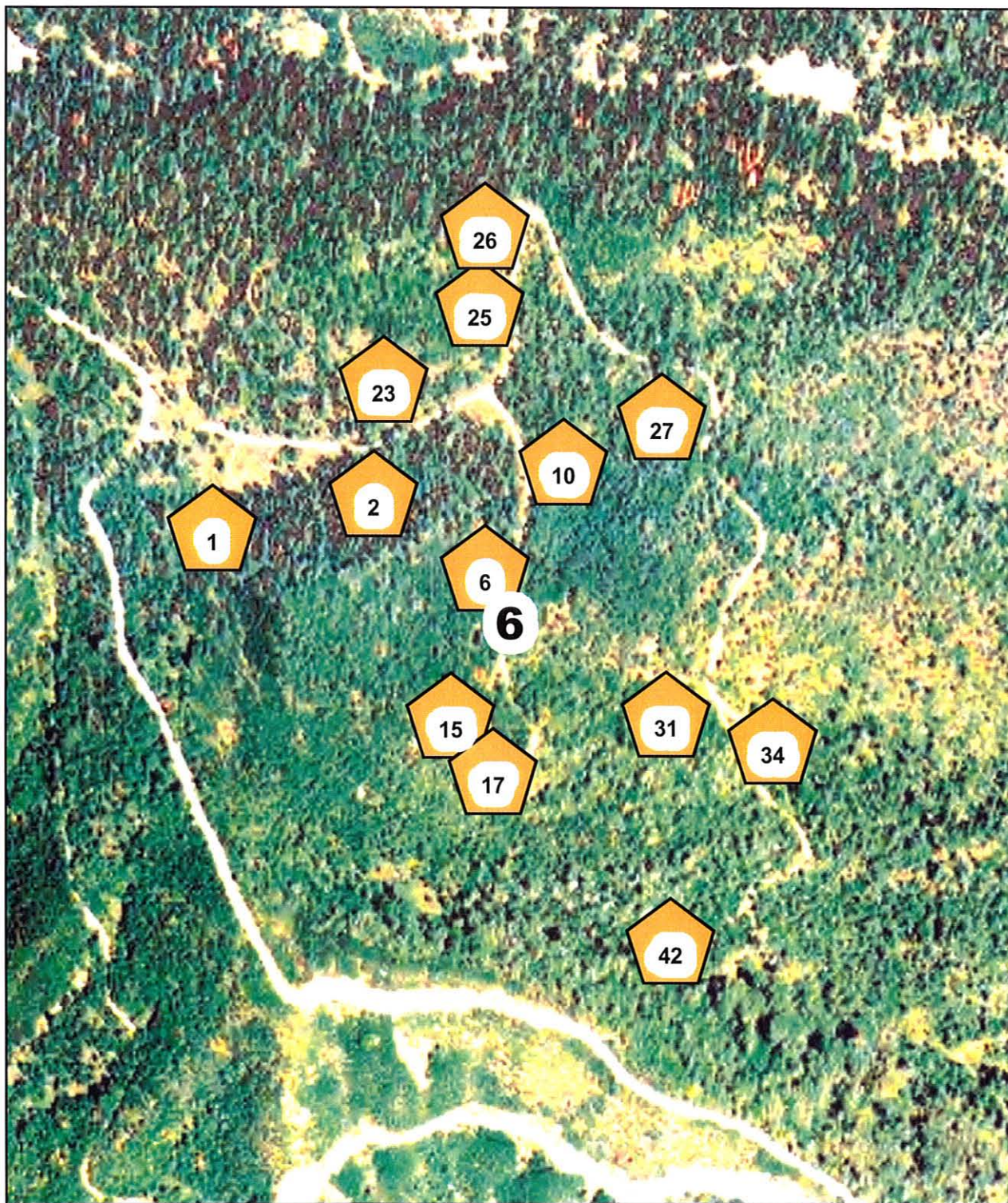
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# Silver Lake Recreation Residence



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